

35 U.S.C. 121:

The inventions stated are:

I - Claims 6-16, drawn to a method of play, classified in class 273, subclass 299,  
and

II - Claims 1-5, drawn to game apparatus, classified in class 273, subclass 274.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group I - Claims 6-16 drawn to a method of play, classified in Class 273, subclass 299. This election is made with traverse of the requirement under 37 C.F.R. 1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction in the Office Action.

The Examiner gives the reasons for the distinctness between Inventions I and II as (1) that the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process (M.P.E.P. 806.05(e)). However, upon reading the method Claims against the apparatus Claims one can readily see that the method Claims are directed to a method "of playing an alphabet challenge game", and that the apparatus

claims are directed to "an alphabet challenge game", and that it is necessary to obtain claims in both the method and apparatus claim language. The method claims necessarily use the apparatus and vice versa. The field of search must necessarily cover both the method class/subclass 273/299 and apparatus class/subclass 273/274, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and II are clearly and necessarily co-extensive. The Examiner's suggestion that "in this case the game apparatus can be used as flash cards to teach students learning how to type" and that "special function cards '\*' and '(' would have helped students remember where the asterisk and parenthesis is on the keyboard" is speculative and has nothing to do with the Claims as presented in this patent application.

Further, it is respectfully suggested that these reasons are insufficient to place the added cost of a second patent application upon the applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Applicants note also that an earlier filed US Patent Application – recently issued as US Patent 6,926,273 - in the same technology of card games, was examined by the same Examiner as the instant application, has an analogous set of claims (one set of claims directed to a method of play, and a second set of claims directed to a card game apparatus), and yet was examined without any Restriction Requirement being issued. It is requested that the Restriction Requirement for the instant application be reconsidered in light of this related application.

Withdrawal of the Restriction Requirement, and allowance of the present Patent Application, is respectfully requested.

It is requested that should there be any problems with this response, please call the undersigned Attorney at (845) 452-5863.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SBA', written over the printed name.

Stephen B. Ackerman, Reg. No, 37,761